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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|-------------------------|------------------|
| 10/075,786 | 02/13/2002 | John E. Holland | 3781-002 (03781.0024.1) | 9809 |

7590

10/22/2003

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

10/075,786

Applicant(s)

HOLLAND ET AL.

Examiner

William H. Mayo III

Art Unit

2831

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 02 July 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☒ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☐ Other (including any explanation in support of the above items):

DETAILED ACTION

After Final Amendment

1. The after-final rejection submitted on July 8, 2003, was entered.

Defective Appeal Brief

NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR

1.192(c)

2. The appeal brief filed on July 2, 2002 is defective because (1) it doesn't specifically identify all of the issues. Specifically, the applicant is required to identify that claims 1-13 are provisional rejection under the 35 USC 101 under the heading "Issues"; (2) the appeal brief also doesn't correctly state any arguments related to the provisional double patenting under the headings "Arguments", which is improper. All of the above are in non-compliance with the requirements of 37 CFR 1.192(c). The applicant is required to submit a proper appeal brief correcting the issues above.

To avoid dismissal of the appeal, appellant must ratify the appeal brief within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS from the mailing of this communication, whichever is longer; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Art Unit: 2831

Communication

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Mayo III whose telephone number is (703) 306-9061. The examiner can normally be reached on M-F 8:30am-6:00 pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308-3682. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

A handwritten signature in black ink, appearing to read 'William H. Mayo III', is written over a circular stamp that is partially obscured.

WHM III
October 19, 2003